

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

STATE OF NEW JERSEY,)	
)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	No. 23-3885 (LMG-LDW)
TRANSPORTATION, <i>et al.</i> ,)	
)	
<i>Defendants,</i>)	
)	
and)	
)	
METROPOLITAN TRANSPORTATION)	
AUTHORITY, <i>et al.</i> ,)	
)	
<i>Defendant-Intervenors.</i>)	
)	

**FEDERAL DEFENDANTS' RESPONSE IN SUPPORT OF SUPPLEMENTAL
EXPLANATION ON REMAND**

As directed by the Court's December 30, 2024 Opinion (ECF No. 191) and January 24, 2025 Order (ECF No. 226), Defendants the U.S. Department of Transportation, *et al.*, provide the following response to Plaintiff the State of New Jersey's ("the State") comments on remand ("Pls.' Supp.") (ECF No. 231).

On February 19, 2025, the Secretary of Transportation terminated the Value Pricing Pilot Program Agreement ("VPPP Agreement") between FHWA and the Project Sponsors¹ and rescinded FHWA's approval of the Central Business District Tolling Program. *See* ECF No. 236-1. Defendant-Intervenors MTA filed suit the same day challenging that decision. *See* ECF No.

¹ The Project Sponsors are the Metropolitan Transportation Authority ("MTA"), the New York State Department of Transportation, and the New York City Department of Transportation.

236-2 (Compl., *Metro Transp. Auth. v. Duffy*, 1:25-cv-1413 (S.D.N.Y.) (“*Duffy*”)). On February 20, 2025, FHWA notified the Project Sponsors that rescission of the approval would be effective March 21, 2025. *See* ECF No. 238-3. Given that this matter is now likely moot, Defendants moved on February 25, 2025, for a stay of these proceedings. *See* ECF No. 238-1. Considering that pending request and FHWA’s rescission of tolling authority, further argument on remand is not currently an efficient use of judicial resources. The Court will be in a better position to evaluate whether any further steps are appropriate in this litigation—including further argument or proceeding to a decision on remand—at the conclusion of the related litigation in *Duffy*.

In light of this concern, Defendants decline to respond further to the State’s remand comments and instead refer the Court to their January 17, 2025 filing, ECF No. 218, and FHWA’s accompanying Supplemental Memorandum, ECF No. 218-1.

Respectfully submitted this 28th day of February 2025,

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